

FISCAL NOTE

HB 121 - SB 668

February 6, 2001

SUMMARY OF BILL: (1) Requires any behavioral health organization (BHO) or health maintenance organization (HMO) to designate a licensed physician to serve as medical director. The medical director would be responsible for all treatment decisions and policies, protocols, quality assurance programs, and utilization review decisions of a BHO or HMO. (2) Requires any BHO or HMO to exercise ordinary and reasonable care when making treatment decisions and applying treatment policies. (3) Makes the BHO or HMO liable for damages for harm from treatment decisions.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - Exceeds \$1,000,000

Increase Local Govt. Expenditures* - Exceeds \$100,000

Other Fiscal Impact - Increase Federal Expenditures - Exceeds \$2,000,000

Estimate assumes that:

- The amount of increased cost to the state in the TennCare program and the state employees health insurance program cannot be determined but can be reasonably estimated to at least exceed \$1,000,000. Cost estimates of similar legislation vary greatly. For information purposes, the Congressional Budget Office estimated in a review of the Managed Care Improvement Act of 2000 that the right to sue (ERISA preemption) would increase premiums by about 1.0 percent. A study by Muse and Associates estimated the increase at about 0.2 percent. A study of proposed California legislation by Price Waterhouse for the Kaiser Foundation estimated that such legislation could lead to premium increases of 0.1 to 0.4 percent. The Barents Group of KPG Peat Marwick in a report for the American Association of Health Plans estimated increased managed care plan costs of 2.7% to 8.6%. As an example, an increase of 0.1 percent to 1 percent in TennCare cost would result in an increase of approximately \$2.7 million to \$27 million in state and federal spending for MCO and BHO services.
- Managed care organizations contracting with the state will incur increased cost from exposure to additional liability. It is reasonable to assume that such cost would ultimately be passed on to the state by TennCare managed care organizations and to the state and local government employee health insurance plans by contract administrators of those plans.

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- Although the state is excluded from liability as an employer, it appears that health care contractors administering the state employees health plan would not be excluded from liability.

Factors that may impact cost include:

- Tennessee does not have limitations on tort awards and the bill does not include limitations.
- Higher exposure to liability may result in reduced availability of health insurance for people with catastrophic medical conditions potentially increasing the uninsurable population in the TennCare program.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James A. Davenport". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James A. Davenport, Executive Director